

1 HOUSE BILL NO. 118

2 INTRODUCED BY R. LENHART

3 BY REQUEST OF THE STATE ADMINISTRATION AND VETERANS' AFFAIRS INTERIM COMMITTEE

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT STANDARDIZING THE DEFINITION OF "VETERAN" IN TAXATION,
6 EMPLOYMENT PREFERENCE, AND VEHICLE REGISTRATION STATUTES TO CONFORM WITH THE
7 DEFINITION OF "VETERAN" PROVIDED IN TITLE 10, MCA; AMENDING SECTIONS 15-1-101 AND
8 39-29-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11

12 **Section 1.** Section 15-1-101, MCA, is amended to read:

13 **"15-1-101. Definitions.** (1) Except as otherwise specifically provided, when terms mentioned in this
14 section are used in connection with taxation, they are defined in the following manner:

15 (a) The term "agricultural" refers to:

16 (i) the production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and vegetables,
17 and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial
18 purposes; and

19 (ii) the raising of domestic animals and wildlife in domestication or a captive environment.

20 (b) The term "assessed value" means the value of property as defined in 15-8-111.

21 (c) The term "average wholesale value" means the value to a dealer prior to reconditioning and the
22 profit margin shown in national appraisal guides and manuals or the valuation schedules of the department.

23 (d) (i) The term "commercial", when used to describe property, means property used or owned by a
24 business, a trade, or a corporation, as defined in 35-2-114, or used for the production of income, except property
25 described in subsection (1)(d)(ii).

26 (ii) The following types of property are not commercial:

27 (A) agricultural lands;

28 (B) timberlands and forest lands;

29 (C) single-family residences and ancillary improvements and improvements necessary to the function
30 of a bona fide farm, ranch, or stock operation;

- 1 (D) mobile homes and manufactured homes used exclusively as a residence except when held by a
2 distributor or dealer as stock in trade; and
- 3 (E) all property described in 15-6-135.
- 4 (e) The term "comparable property" means property that:
- 5 (i) has similar use, function, and utility;
- 6 (ii) is influenced by the same set of economic trends and physical, governmental, and social factors; and
- 7 (iii) has the potential of a similar highest and best use.
- 8 (f) The term "credit" means solvent debts, secured or unsecured, owing to a person.
- 9 (g) (i) "Department", except as provided in subsection (1)(g)(ii), means the department of revenue
10 provided for in 2-15-1301.
- 11 (ii) In chapters 70 and 71, department means the department of transportation provided for in 2-15-2501.
- 12 (h) The terms "gas" and "natural gas" are synonymous and mean gas as defined in 82-1-111(2). The
13 terms include all natural gases and all other fluid hydrocarbons, including methane gas or any other natural gas
14 found in any coal formation.
- 15 (i) The term "improvements" includes all buildings, structures, fences, and improvements situated upon,
16 erected upon, or affixed to land. When the department determines that the permanency of location of a mobile
17 home, manufactured home, or housetrailer has been established, the mobile home, manufactured home, or
18 housetrailer is presumed to be an improvement to real property. A mobile home, manufactured home, or
19 housetrailer may be determined to be permanently located only when it is attached to a foundation that cannot
20 feasibly be relocated and only when the wheels are removed.
- 21 (j) The term "leasehold improvements" means improvements to mobile homes and mobile homes
22 located on land owned by another person. This property is assessed under the appropriate classification, and
23 the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on leasehold
24 improvements are a lien only on the leasehold improvements.
- 25 (k) The term "livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas,
26 bison, ostriches, rheas, emus, and domestic ungulates.
- 27 (l) The term "manufactured home" means a residential dwelling built in a factory in accordance with the
28 United States department of housing and urban development code and the federal Manufactured Home
29 Construction and Safety Standards. A manufactured home does not include a mobile home, as defined in
30 61-1-501 and in subsection (1)(m) of this section, a housetrailer, as defined in 61-1-501, or a mobile home or

1 housetrailer constructed before the federal Manufactured Home Construction and Safety Standards went into
2 effect on June 15, 1976.

3 (m) The term "mobile home" means forms of housing known as "trailers", "housetrailer", or "trailer
4 coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an
5 independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45 feet
6 in length used as a principal residence.

7 (n) The term "personal property" includes everything that is the subject of ownership but that is not
8 included within the meaning of the terms "real estate" and "improvements" and "intangible personal property"
9 as that term is defined in 15-6-218.

10 (o) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in
11 domestication to produce food or feathers.

12 (p) The term "property" includes money, credits, bonds, stocks, franchises, and all other matters and
13 things, real, personal, and mixed, capable of private ownership. This definition may not be construed to authorize
14 the taxation of the stocks of a company or corporation when the property of the company or corporation
15 represented by the stocks is within the state and has been taxed.

16 (q) The term "real estate" includes:

17 (i) the possession of, claim to, ownership of, or right to the possession of land;

18 (ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and
19 Title 15, chapter 23, part 8;

20 (iii) all timber belonging to individuals or corporations growing or being on the lands of the United States;
21 and

22 (iv) all rights and privileges appertaining to mines, minerals, quarries, and timber.

23 (r) "Recreational" means hunting, fishing, swimming, boating, waterskiing, camping, biking, hiking, and
24 winter sports, including but not limited to skiing, skating, and snowmobiling.

25 (s) "Research and development firm" means an entity incorporated under the laws of this state or a
26 foreign corporation authorized to do business in this state whose principal purpose is to engage in theoretical
27 analysis, exploration, and experimentation and the extension of investigative findings and theories of a scientific
28 and technical nature into practical application for experimental and demonstration purposes, including the
29 experimental production and testing of models, devices, equipment, materials, and processes.

30 (t) The term "stock in trade" means any mobile home, manufactured home, or housetrailer that is listed

1 by the dealer as inventory and that is offered for sale, is unoccupied, and is not located on a permanent
2 foundation. Inventory does not have to be located at the business location of a dealer or a distributor.

3 (u) The term "taxable value" means the percentage of market or assessed value as provided for in Title
4 15, chapter 6, part 1.

5 (2) The phrase "municipal corporation" or "municipality" or "taxing unit" includes a county, city,
6 incorporated town, township, school district, irrigation district, or drainage district or a person, persons, or
7 organized body authorized by law to establish tax levies for the purpose of raising public revenue.

8 (3) The term "state board" or "board" when used without other qualification means the state tax appeal
9 board.

10 (4) The term "veteran" has the meaning provided in 10-2-101."

11

12 **Section 2.** Section 39-29-101, MCA, is amended to read:

13 **"39-29-101. Definitions.** For the purposes of this chapter, the following definitions apply:

14 (1) "Active duty" means full-time duty with military pay and allowances in the armed forces, except for
15 training, determining physical fitness, or service in the reserve or national guard.

16 (2) "Armed forces" means the United States:

17 (a) army, navy, air force, marine corps, and coast guard; and

18 (b) merchant marine for service recognized by the United States department of defense as active
19 military service for the purpose of laws administered by the department of veterans affairs.

20 (3) "Disabled veteran" means a person:

21 (a) whether or not the person is a veteran as defined in this section, who was separated under
22 honorable conditions from active duty in the armed forces and has established the present existence of a
23 service-connected disability or is receiving compensation, disability retirement benefits, or pension because of
24 a law administered by the department of veterans affairs or a military department; or

25 (b) who has received a purple heart medal.

26 (4) "Eligible relative" means:

27 (a) the unmarried surviving spouse of a veteran or disabled veteran;

28 (b) the spouse of a disabled veteran who is unable to qualify for appointment to a position;

29 (c) the mother of a veteran who died under honorable conditions while serving in the armed forces if:

30 (i) the mother's spouse is totally and permanently disabled; or

- 1 (ii) the mother is the widow of the father of the veteran and has not remarried;
- 2 (d) the mother of a service-connected permanently and totally disabled veteran if:
- 3 (i) the mother's spouse is totally and permanently disabled; or
- 4 (ii) the mother is the widow of the father of the veteran and has not remarried.
- 5 (5) (a) "Position" means a position occupied by a permanent, temporary, or seasonal employee, as
- 6 defined in 2-18-101, for the state or a similar permanent, temporary, or seasonal employee with a public
- 7 employer other than the state.
- 8 (b) The term does not include:
- 9 ~~(a)~~(i) a state or local elected office;
- 10 ~~(b)~~(ii) appointment by an elected official to a body, such as a board, commission, committee, or council;
- 11 ~~(c)~~(iii) appointment by an elected official to a public office if the appointment is provided for by law;
- 12 ~~(d)~~(iv) a department head appointment by the governor or an executive department head appointment
- 13 by a mayor, city manager, county commissioner, or other chief administrative or executive officer of a local
- 14 government; or
- 15 ~~(e)~~(v) engagement as an independent contractor or employment by an independent contractor.
- 16 (6) "Public employer" means:
- 17 (a) a department, office, board, bureau, commission, agency, or other instrumentality of the executive,
- 18 legislative, or judicial branches of the government of this state;
- 19 (b) a unit of the Montana university system;
- 20 (c) a school district or community college; and
- 21 (d) a county, city, or town.
- 22 (7) "Scored procedure" means a written test, structured oral interview, performance test, or other
- 23 selection procedure or a combination of these procedures that results in a numerical score to which percentage
- 24 points may be added.
- 25 (8) "Under honorable conditions" means a discharge or separation from active duty characterized by
- 26 the armed forces as under honorable conditions. The term includes honorable discharges and general
- 27 discharges but does not include dishonorable discharges or other administrative discharges characterized as
- 28 other than honorable.
- 29 (9) "Veteran" means a person who:
- 30 ~~(a) was separated under honorable conditions from active duty in the armed forces after having served~~

1 ~~more than 180 consecutive days, other than for training; or~~
2 ~~—— (b) as a member of a reserve component under an order of active duty pursuant to 10 U.S.C. 12301(a);~~
3 ~~(d), or (g), 10 U.S.C. 12302, or 10 U.S.C. 12304 served on active duty during a period of war or in a campaign~~
4 ~~or expedition for which a campaign badge is authorized and was discharged or released from duty under~~
5 ~~honorable conditions has the meaning provided in 10-2-101."~~

6
7 NEW SECTION. Section 3. Definition. As used in this chapter, "veteran" has the meaning provided
8 in 10-2-101.

9
10 NEW SECTION. Section 4. Codification instruction. [Section 3] is intended to be codified as an
11 integral part of Title 61, chapter 3, and the provisions of Title 61, chapter 3, apply to [section 3].

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13 NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

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